

Sabah TLAS Audit Report

Sabah Legality Standard Principles 1 – 4

Licensee	Licensee: Silam Forest Products Sdn. Bhd. 197901000492 (44754-D) Developer: Arus Sawit Sdn. Bhd. 200701028111 (786133-U)	Reference #	GFSSBH 003-237a
Contact Person	Aaron Paul Roland (Senior Estate Manager)	Date of Report	12/01/2024
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		Approved By	Dr. Kevin Grace

Statements

Audit Statement	NC: Non-Compliance – Criterion 2.3 (Outstanding)		
Issuance Date	Not applicable	Expiration Date	Not applicable

Assessment Details

Assessment Dates	08 – 12 January 2024
Scope of Assessment	Sabah TLAS P1-4: Agroforestry Development License Agreement JP(SBN)03/2007(CO)
Species	Agroforestry planted trees: Oil Palm (<i>Elaeis guineensis</i>) Enrichment planting trees: Rambutan (<i>Nephelium spp.</i>), Cempedak (<i>Artocarpus spp.</i>), Bayur (<i>Pterospermum spp.</i>), Kapur (<i>Dryobalanops lanceolata</i>), Durian (<i>Durio spp.</i>), Ketapang (<i>Terminalia spp.</i>).
Lead Assessor	Priera Bagang
Assessor(s)	Brandon James, Aleeza Ho
SFD Staff	SH Mohd. Roslie (ADFO Beluran), Abu Bakar (ADFO Beluran), Ahmad (KPPM Bonggaya Barat), Brian Fred (PPM Bonggaya Barat), Muhd. Alyusuf (PPM Bonggaya Barat).

OBJECTIVES:

- The objective of this checklist is to verify compliance to the Criteria listed in the Sabah Legality Standard as defined by Principles 1 - 4 for Sabah dated November 2020 (**SFD-TLAS-002**).
- Compliance is defined when all applicable criteria are observed to be compliant. A Minor Gap to any indicator does not constitute non-compliance to a criterion. A Major Gap to any applicable indicator does reflect non-compliance to a criterion. Compliance for a criterion where multiple minor gaps are identified in indicators under the criterion may reflect non-compliance to the criterion.
- All issues identified under this standard shall be considered appropriate to the scale and degree of forestry operations undertaken by the parties under the agreement.

Summary Information

Overview of Licensee:

- Bonggaya Class II Commercial Forest Reserve is severely degraded due to the issuance of multiple short-term logging permits between 1970 - 2005.
- The Sabah State Government, through the Sabah Forestry Department, granted a licensed area [JP(SBN)03/2007 (CO)] of approximately 10,326 hectares to Silam Forest Products Sdn. Bhd. (Silam Forest Products) on 25/07/2007, to plant, establish and harvest forest products and agroforestry crops. The licensed area commonly referred to as Lot 3, forms part of the greater Bonggaya Class II Commercial Forest Reserve.
- Silam Forest Products and Arus Sawit Sdn. Bhd. (Arus Sawit) signed an agreement dated 19/11/2007 to jointly develop the project area into a large-scale Agroforestry Development Project to establish an oil palm plantation under a Joint Venture Agroforestry Program.
- Arus Sawit is certified under Occupational Health & Safety Management System Standard (ISO 45001:2018), Environmental Management Systems Standard (ISO 14001:2015), Quality Management Systems Standard (ISO 9001:2015) valid until 21/09/2026 and Malaysian Sustainable Palm Oil Part 3: General Principles of Oil Palm Plantations Management System standard (MS 2530-3:2023) valid until 13/08/2024.
- Arus Sawit has engaged Hynergy Resource Sdn. Bhd. (Hynergy Resource) as a subcontractor to provide manpower for Arus Sawit.
- The previous assessment was conducted in January 2023 and resulted in 3 gap(s) and 3 observation(s) (Report #: GFSSBH003-117a).

Current Operations:

- Natural Forest Management (NFM): No harvesting is planned within the NFM coupe areas. The specified land use activities, as per the NFM coupe permits, include silviculture treatment and enrichment planting. Records indicate a cumulative total of 5,835 planted trees.
- Oil Palm Plantation: As of the assessment, no new oil palm planting has occurred. The current status of oil palm planting, based on records, is as follows:

Coupe	Initial planted (ha)	Total oil palm (seedlings)	Year of planting
SDK 19/08	229.98	25,502	2008
SDK 03/09	3,059.87	237,125	2009
SDK 20/09	2,661.92	172,604	2010
SDK 06/11	215.22*	19,195	2011
Total	6,166.99	454,426.00	

*The planted area exceeds the total coupe permit area.

- Land use classification:

Land classification	2 nd ADP Area (ha)	Current Status, January 2024 (ha)
Total Concession Area	10,578.50	10,570.00
Agroforestry (oil palm)	6,166.99	5,874.57
Agroforestry (vacant area)	-	292.42*
Conservation area	135.66	135.66
Road	676.34	676.34
Riparian reserve	591.67	591.67
Infrastructure & Buildings	14.12	14.12
Encroachment (disputed area)	1,395.17	1,395.17
Natural Forest Management	1,590.05	1,590.05

*This area was initially planted with oil palm; however, due to high mortality and lack of maintenance by Arus Sawit, the area was left vacant with no re-plantation of oil palm.

Environmental Context:

- The total area changed from 10,326 ha to 10,570 ha after resurveying the licensed area. The adjustments were incorporated into the revised 2nd 10-year (01/01/2018 – 31/12/2027) Agroforestry Development Plan (ADP), which was approved on 05/12/2008.
- The Agroforestry project involves oil palm plantation establishment and natural forest management. Approximately 6,167 ha (58.3%) have been developed into oil palm plantations and 2,317.38 ha (21.9%) including steep and riparian areas, are managed under natural forest management. Infrastructure and amenities such as nurseries, base camps, roads, ponds or swamps, dwelling places and office buildings make up about 690.46 ha or 6.5% of the total area.
- The licensed area is divided into Zone I – Natural Forest Management and Environmental Conservation Area and Zone II – Oil Palm Plantation, including infrastructure and amenities.
- The objectives within Zone I are to manage and sustain the production of high-value timber by rehabilitating all degraded forest areas with indigenous tree species such as Laran (*Anthocephalus cadamba*), Binuang (*Octomeles sumatrana*), Kapur (*Dryobalanops lanceolata*), and *Shorea spp.* throughout the entire contract period.
- Topography: The licensed area lies between Sg Makopako at its northern boundary and Sg Tungud near the southern boundary. The eastern half is generally flat to undulating and interspersed with small hills, while the western half comprises higher grounds of low hills. The main soil types are nutrient deficient Orthic acrisols.
- Hydrology: The licensed area traversed by Sg. Makopako in the north and Sg. Tungud in the south, along with Sg. Botitian, Sg. Rungus, Sg. Menlong-long, and Sg. Fortuna, which converges into Sg. Tungud. All watercourses in the licensed area eventually flow into the larger Sg. Bonggaya. Preserving steep terrains and riparian zones is essential for the sustainable management and maintenance of the watershed areas in this drainage system.
- Flora and Fauna: The natural vegetation of the licensed area, part of the greater Bonggaya Forest Reserve, was dominated by Mixed Dipterocarp Forest in the steeper western portion. Whereas larger areas of continuous swamp forest where drainage is impeded by river levees in the northern boundary and in smaller pockets adjacent to the waterways. Direct sightings of animals in the NFM areas were limited to Borneon Gibbon, Monitor Lizard, Slow Loris, Leopard cat, Common palm civet, Long-tailed and short-tailed macaques. However, recorded footprints indicate the presence of wild pigs and barking deer. Footprints of larger wild cats and sun bears were also seen. The site supports at least one, and probably two Totally Protected Animals (Schedule 1, Part 1, Section 25(1) of the Wildlife Conservation Enactment 1997), namely, the Sun Bear (*Helarctos malayanus*) and the Clouded Leopard (*Neofelis nebulosa*).
- The EIA study entitled “Environmental Impact Assessment for the Proposed Agroforestry Development at Lot 3, Bonggaya Forest Reserve, Beluran District, Sabah” was conducted by ERM Borneo Sdn. Bhd. and approved by the Environment Protection Department (EPD) on 23/02/2009 (Ref.#: JPAS/PP/17/600-1/11/1/47).

Social Context:

- Social Impact Assessment of Arus Sawit was prepared in 2018 by Think Big Management Consultant Sdn. Bhd. Four (4) villages, Kg. Rungus, Kg. Basai, Kg. Cocos and Kg. Botition/Cenderamata identified as the neighbouring stakeholders for Arus Sawit.
- Arus Sawit identified land disputes in the licensed area for agricultural production totalling 1,395.17 ha, whereby the SFD approved the area to be excised [Ref.#: JPHTN/BN(S) 700-1//2/1(Jld.3)/26 dated 02/07/2018]. The areas have been excluded from forest operations; however, it is pending resolutions from the Sabah State Government, the Chief Conservator of Forests and Land & Survey Department. As of the assessment, there is no confirmation letter from the Sabah’s State Government, CCF and the Land & Survey Department regarding the demarcation of a new licensed boundary.

Scope of Assessment

- The scope of the evaluation is to verify compliance of Silam Forest Products Sdn. Bhd. (Arus Sawit Sdn. Bhd.) with the Agroforestry Development License Agreement [JP(SBN) 03/2007 (CO)] for FMU 18 (partly).
- The assessment is in accordance on the terms of the agreement for the “Sabah Legality Standard Principles 1 - 4 dated November 2020 (SFD-TLAS-002).
- Site evaluation to verify and report the level of compliance by Silam Forest Products Sdn. Bhd. (Arus Sawit Sdn. Bhd.) and contractors to the standard in respect to each of the criteria within this report.
- Compliance is defined when the auditee demonstrates that the indicators consist of none or only minor gaps against any applicable criteria of the standard. Non-compliance to the Sabah Legality Standard occurs when the auditee does not demonstrate adequate compliance to a criterion.

Itinerary & Mandays: FMU 18 (partly) / Silam Forest Products Sdn. Bhd. (Arus Sawit Sdn. Bhd.) / Beluran District / 08 – 12 January 2024 / (Total Mandays = 17)

Date	Activity	GFS Staff	Mandays
08 January 2024 Monday	Travelling to IPS Telupid and overnight.	Priera Bagang Brandon James Aleeza Ho	3
09 January 2024 Tuesday	Opening meeting at Arus Sawit's estate office. Field visit to licensed area: Licensed boundary, campsites, coupe boundary, FFB harvesting area, protection areas, silviculture treatment area, enrichment planting area. Document review at Arus Sawit's estate office. Compiling report.	Priera Bagang Brandon James Aleeza Ho	3
10 January 2024 Wednesday	Document review at PPD Telupid and compiling report.	Priera Bagang Brandon James Aleeza Ho	3
11 January 2024 Thursday	Document review at PPD Beluran and closing meeting. Travel to home base.	Priera Bagang Brandon James Aleeza Ho	3
12 January 2024 Friday	Finalizing report	Priera Bagang Brandon James Aleeza Ho	3
13-14 January 2024	Reporting GFSSBH 003-237	Dr. Kevin Grace Priera Bagang	2
Total			17

Highlights of Assessment

(Major gap = 1, minor gap = 3, Observation = 2)

March 2024: (Major gap = 1, minor gap = 3, Observation = 2)

Silam Forest Products Sdn. Bhd. (Arus Sawit Sdn. Bhd.) has not complied with the Sabah Legality Standard (SFD-TLAS-002) as non-compliance was not addressed under Criterion 2.3 during the assessment on 08 – 12 January 2024.

Summary of status of operations by **Principle**:

Principle 1.

The Agro-Forestry Development License Agreement #: JP(SBN)03/2007 (CO) was signed on 25/07/2007. Silam Forest Products has an approved coupe permit from the SFD, allowing Arus Sawit to conduct Oil Palm Plantation and Natural Forest Management activities.

The EIA study entitled “Environmental Impact Assessment for the Proposed Agroforestry Development at Lot 3, Bonggaya Forest Reserve, Beluran District, Sabah” was conducted by ERM Borneo Sdn. Bhd. and approved by the Environment Protection Department (EPD) on 23/02/2009 (Ref.#: JPAS/PP/17/600-1/11/1/47). The EPD consultant has conducted the quarterly environment monitoring.

Arus Sawit has an approved Agroforestry Development Plan (ADP) by the Chief Conservator of Forests

Highlights of Assessment

from 01/01/2018 – 31/12/2027 (10-year) under Agro-Forestry Development License Agreement #: JP(SBN)03/2007(CO) for Bonggaya Forest Reserves (Partly).

Arus Sawit has submitted the AWP 2024 draft to DFO Beluran (Ref.#: ASSB/2024/026 dated 10/01/2024). SFD acknowledged receipt the said letter on 10/01/2024. However, it is pending approval from the SFD.

February 2023: Observation 001-2022 (Outstanding)

The new licensed boundary has yet to be finalized.

January 2024: Gap 001/2024 (Raised to minor) – Checklist 1.1.2

The demarcation of the new licensed boundary is pending approval.

February 2023: Observation 001-2023 – 1.3.2.4

The total area of NFM differs between the ADP and the coupe permit.

January 2024: Observation 001-2023 (Outstanding)

The total area of NFM differs between the 2nd ADP and the coupe permit.

February 2023: Gap 001/2023 (minor) – Checklist 1.3.2.8

The current ADP did not adequately define the plan and schedule for silviculture and enrichment planting inside the NFM areas. As a result, the planted oil palm area exceeded the approved coupe permit area inside Coupe SDK 06/11.

January 2024: Gap 001/2023 (minor) - Outstanding

The oil palm planted area exceeded the approved coupe permit area inside Coupe SDK 06/11 and the ADP has not been approved by the SFD for scheduled enrichment planting and silviculture activities.

January 2024: Observation 001-2024 – Checklist 1.3.3

The 2nd ADP document did not specify the management review schedule.

February 2023: Observation 002-2023 – Checklist 1.4.1

The annual work plan for maintenance of planted trees is greater than the actual planted area.

January 2024: Observation 002-2023 (Addressed)

The annual work plan for maintenance and harvesting of planted areas corresponds with the actual planted area.

Principle 2.

Arus Sawit identified protected areas and no encroachment was observed during the assessment. However, Arus Sawit has not demonstrated compliance with the regulatory requirements for workers.

April 2023: Gap 001/2022 (Major) – Outstanding

No evidence of valid work permits for foreign workers. The total foreign workers exceeded the JTK quota.

January 2024: Gap 001/2022 (Major) – Outstanding – Checklist 2.3.1, 2.3.5

The number of foreign workers exceeded the JTK license quota. Not all workers have COI, work permit and SOCSO as required.

March 2024: Gap 001/2022 (Major) – Outstanding – Checklist 2.3.1, 2.3.5

Arus Sawit and Hynergy Resources have not taken action to rectify the number of foreign workers that exceeded the JTK license quota. Not all workers have COI, work permit and SOCSO as required.

February 2023: Gap 002/2023 (minor) – Checklist 2.3.7

Arus Sawit has yet to develop Forest Fire Management Plan as required.

January 2024: Gap 002/2023 (minor) – Outstanding

The Forest Fire Management Plan is pending approval.

Principle 3.

Arus Sawit had paid all the statutory charges to the government.

Principle 4.

Arus Sawit identified land disputes in the licensed area for agricultural production totalling 1,395.17 ha, whereby the SFD approved the area to be excised [Ref.#: JPHTN/BN(S) 700-1//2/1(Jld.3)/26 dated 02/07/2018]. The areas have been excluded from forest operations; however, it is pending resolutions from the Sabah State Government, the Chief Conservator of Forests and Land & Survey Department. As

Highlights of Assessment

of the assessment, there is no confirmation letter from the Sabah's State Government, CCF and the Land & Survey Department regarding the demarcation of a new licensed boundary.

The Social Impact Assessment was prepared in 2018 by Think Big Management Consultant Sdn. Bhd. Four (4) villages, Kg. Rungus, Kg. Basai, Kg. Cocos and Kg. Botition/Cenderamata identified as the neighbouring stakeholders for Arus Sawit.

Arus Sawit communicates with stakeholders, including the surrounding village and provides goodwill donations and assists in community requests.

February 2023: Observation 001-2022 (Outstanding)

The new licensed boundary has yet to be finalized.

January 2024: Gap 001/2024 (Raised to minor) - Checklist 4.1.3

The demarcation of the new licensed boundary is pending approval.

Summary Results:

(Major gap = 1, minor gap = 3, Observation = 2)

March 2024: (Major gap = 1, minor gap = 3, Observation = 2)

Gap raised against indicators & criteria during the January 2024 assessment.

GAP	Type	Checklist	Status	Description
001/2022	Major	2.3.1 2.3.5	Outstanding	<p>April 2023: No evidence of valid work permits for foreign workers. The total foreign workers exceeded the JTK quota.</p> <p>January 2024: The number of foreign workers exceeded the JTK license quota. Not all workers have COI, work permit and SOCSO as required.</p> <p>March 2024: Arus Sawit and Hynergy Resources have not taken action to rectify the number of foreign workers that exceeded the JTK license quota. Not all workers have COI, work permit and SOCSO as required.</p>
001/2023	minor	1.3.2.8	Outstanding	<p>February 2023: The current ADP did not adequately define the plan and schedule for silviculture and enrichment planting inside the NFM areas. As a result, the planted oil palm area exceeded the approved coupe permit area inside Coupe SDK 06/11.</p> <p>January 2024: The oil palm planted area exceeded the approved coupe permit area inside Coupe SDK 06/11 and the ADP has not been approved by the SFD for scheduled enrichment planting and silviculture activities.</p>
002/2023	minor	2.3.7	Outstanding	<p>February 2023: Arus Sawit has yet to develop Forest Fire Management Plan as required.</p> <p>January 2024: The Forest Fire Management Plan is pending approval.</p>
001/2024	Obs 001- 2022	1.1.2 4.1.3	Raised to minor	<p>February 2023: The new licensed boundary has yet to be finalized.</p> <p>January 2024: The demarcation of the new licensed boundary is pending approval.</p>

Observation raised against indicators & criteria during the January 2024 assessment.

Obs #	Checklist	Description
001-2023 Outstanding	1.3.2.4	February 2023: The total area of NFM differs between the ADP and the coupe permit. January 2024: The total area of NFM differs between the 2 nd ADP and the coupe permit.
002-2023 Addressed	1.4.1	February 2023: The annual work plan for maintenance of planted trees is greater than the actual planted area. January 2024: The annual work plan for maintenance and harvesting of planted areas corresponds with the actual planted area.
001-2024	1.3.3	January 2024: The 2 nd ADP document did not specify the management review schedule.

Highlights of Close Out Visit (if applicable)	Dates	-
Major Gap 001/2022 shall be addressed within 2 months by March 2024.		

Recommendations
<p>Silam Forest Products Sdn. Bhd. (Arus Sawit Sdn. Bhd.) has NOT demonstrated compliance with the Sabah Legality Standard (SFD-TLAS-002) as non-compliance was identified under Criterion 2.3 and is not recommended to receive a GFS Statement of Compliance and Sabah Timber Legality Assurance System Compliance Certificate (TLAS-CC) from SFD.</p> <p>The Major Gaps shall be addressed within two months by March 2024.</p> <p>Gap 001/022 (Major) Outstanding – Checklist 2.3.1, 2.3.5: Arus Sawit and Hynergy Resource shall make payment for the COI and ensure the JTK license does not exceed the quota to hire foreign workers, workers have valid passports, work permits and registered under COI and SOCSO.</p> <p>Gap(s)/Observation(s) identified in this assessment should be addressed before the next surveillance visit. Action required to close the gap(s)/observation(s) include:</p> <p>Gap 001/2023 (minor) – Checklist 1.3.2.8: Arus Sawit shall submit the schedule for silviculture and enrichment planting for NFM and all plantation area and must follow the approved coupe permit area.</p> <p>Gap 002/2023 (minor) Outstanding – Checklist 2.3.7: Arus Sawit shall submit the FFMP in due time and SFD shall expedite the FFMP approval.</p> <p>Gap 001/2024 (Raised to minor) – Checklist 1.1.2, 4.1.3: SFD shall follow up with the respective department and expedite the new boundary demarcation for the excised area.</p> <p>Observation 001-2023 (Outstanding) – Checklist 1.3.2.4: Arus Sawit shall expedite the 2nd ADP revision on land use to include the NFM total area inside the management plan.</p> <p>Observation 001-2024 - Checklist 1.3.3: Arus Sawit shall revise the current 2nd ADP to include the schedule of management plan review.</p> <p>The next annual surveillance audit will be scheduled for January 2025.</p>

End of Summary Report